

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION**

Stanley Drake	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 9:17-cv-38
v.	§	
	§	
BEST MED, INC. and Priority Prescription Group, Inc.	§	JURY DEMANDED
	§	
	§	
Defendants	§	

ORIGINAL COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW Plaintiff Stanley Drake, by and through his undersigned attorney of record, and sues Defendants BEST MED, INC. and Priority Prescription Group, Inc. (hereinafter referred to collectively as “Defendants”), and in support thereof would show unto this Honorable Court as follows:

I. PRELIMINARY STATEMENT

1. Plaintiff brings this action for unpaid overtime compensation, and other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. § 216(b) (“FLSA”).

2. During the three years prior to the filing of this Complaint, Defendants willfully committed violations of the FLSA by failing to pay Plaintiff for overtime hours worked in excess of forty hours per week at a rate of one and one-half times his regular rate of pay.

II. JURISDICTION AND VENUE

3. Jurisdiction is conferred on this Court by Title 28 U.S.C. § 1331, Title 28 U.S.C. § 1337, and by Title 28 U.S.C. § 216(b).

4. Venue is proper in this district under 28 U.S.C. § 1391 in that a substantial part of the events or omissions giving rise to this claim occurred in this district.

5. At all times pertinent to this Complaint, Defendants have each acted, directly or indirectly, in the interest of an employer or joint employer with respect to Plaintiff.

6. At all times hereinafter mentioned, Defendants have each been an employer within the meaning of Section 3(d) of the FLSA, 29 U.S.C. § 203(d).

7. At all times hereinafter mentioned, Defendants have each been an enterprise within the meaning of Section 3(r) of the FLSA, 29 U.S.C. § 203(r).

8. At all times hereinafter mentioned, Defendants have each been an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Section 3(s)(1) of the FLSA, 29 U.S.C. § 203(s)(1), in that said enterprise has had employees engaged in commerce or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person and in that said enterprise has had and has an annual gross volume of sales made or business done of not less than \$500,000 (exclusive of excise taxes at the retail level which are separately stated).

9. At all times hereinafter mentioned, Plaintiff was an individual employee who was engaged in commerce or in the production of goods for commerce as required by 29 U.S.C. § 206-207.

III. PARTIES

10. Plaintiff is an individual residing in Lubbock County, Texas.

11. Defendant BEST MED, INC. is a domestic corporation doing business in the State of Texas and maintains its principal office in Brownwood, Texas. This Defendant can be served

with process by serving its registered agent for service of process, Joe W. Riley, 116 South Park Drive, Brownwood, Texas 76801.

12. Defendant Priority Prescription Group, Inc. is a domestic corporation doing business in the State of Texas and maintains its principal office in Brownwood, Texas. This Defendant can be served with process by serving its registered agent for service of process, Joe W. Riley, 116 South Park Drive, Brownwood, Texas 76801.

IV. FACTUAL ALLEGATIONS

13. Plaintiff worked for Defendants jointly from approximately December 2013 to December 2015 as a Pharmacist.

14. Plaintiff was an hourly employee.

15. Plaintiff was a nonexempt employee.

16. Plaintiff regularly worked in excess of forty (40) hours per workweek (overtime hours).

17. Defendants were aware that Plaintiff regularly worked in excess of forty (40) hours per workweek.

18. During one or more weeks of Plaintiff's employment with Defendants wherein Plaintiff worked overtime hours, Defendants failed to pay Plaintiff one and one-half times Plaintiff's regular rate of pay for each overtime hour worked (overtime compensation).

19. No justification or excuse existed for Defendants' practice of failing to compensate Plaintiff one and one-half times Plaintiff's regular rate of pay for each overtime hour worked.

V. CAUSES OF ACTION: VIOLATION OF FLSA

20. The acts described in the preceding paragraphs violate the FLSA, which prohibits the denial of overtime compensation for hours worked in excess of forty (40) per workweek. Defendants willfully violated Plaintiff's rights under the FLSA.

21. As a result of Defendants' unlawful conduct, Plaintiff is entitled to actual and compensatory damages, including the amount of overtime which was not paid and which should have been paid.

22. Plaintiff seeks and is entitled to an award of liquidated damages in an amount equal to Plaintiff's unpaid overtime pay pursuant to 29 U.S.C. § 216(b).

23. Plaintiff also seeks compensation for expenses and costs of court that will be incurred in this action. Plaintiff is also entitled to reasonable and necessary attorney's fees pursuant to 29 U.S.C. § 216(b).

VI. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that:

1. The Court assume jurisdiction of this cause and that Defendants be cited to appear;
2. The Court award damages to Plaintiff as specified above;
3. The Court award reasonable and necessary attorney's fees and costs; and
4. The Court award Plaintiff pre- and post-judgment interest at the highest rates allowed. Plaintiff further prays for any such other relief as the Court may find proper, whether in law or in equity.

JURY TRIAL DEMAND

Plaintiff demands a jury trial on all issues so triable.

Respectfully submitted:

By: /s/ David G. Langenfeld
David G. Langenfeld

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